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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/637,625	08/11/2003	Jonathan Hui	03630.000203.1	2096
5514 7590 02/22/2008 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				
EXAMINER BANTAMOI, ANTHONY				
ART UNIT 2623		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/637,625

Applicant(s)

HUI ET AL.

Examiner

ANTHONY BANTAMOI

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 10/02/2003
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-6 are rejected under 35 U.S.C. 101 because the claimed invention is directed to a non-statutory subject matter as follows.

Claim 1 recites a data structure which does not impart functionality to a computer or a computing device and is thus considered a nonfunctional descriptive material. Such nonfunctional descriptive material, in the absence of a functional interrelationship with a computer, does not constitute a statutory process, machine, manufacture or composition of matter and is thus non-statutory per se.

Claim 2 recites a data structure which does not impart functionality to a computer or a computing device and is thus considered a nonfunctional descriptive material. Such nonfunctional descriptive material, in the absence of a functional interrelationship with a computer, does not constitute a statutory process, machine, manufacture or composition of matter and is thus non-statutory per se.

Claim 3 recites a data structure which does not impart functionality to a computer or a computing device and is thus considered a nonfunctional descriptive material. Such nonfunctional descriptive material, in the absence of a functional interrelationship

with a computer, does not constitute a statutory process, machine, manufacture or composition of matter and is thus non-statutory per se.

Claim 4 recites a data structure which does not impart functionality to a computer or a computing device and is thus considered a nonfunctional descriptive material. Such nonfunctional descriptive material, in the absence of a functional interrelationship with a computer, does not constitute a statutory process, machine, manufacture or composition of matter and is thus non-statutory per se.

Claim 5 recites a data structure which does not impart functionality to a computer or a computing device and is thus considered a nonfunctional descriptive material. Such nonfunctional descriptive material, in the absence of a functional interrelationship with a computer, does not constitute a statutory process, machine, manufacture or composition of matter and is thus non-statutory per se.

Claim 6 recites a data structure which does not impart functionality to a computer or a computing device and is thus considered a nonfunctional descriptive material. Such nonfunctional descriptive material, in the absence of a functional interrelationship with a computer, does not constitute a statutory process, machine, manufacture or composition of matter and is thus non-statutory per se.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-6 are rejected under 35 U.S.C. 102(a) as being anticipated by Jacco van Ossenbruggen et al in the publication titled requirements for multimedia markup and style sheets on the world wide web, Computer Networks and ISDN Systems, volume 30, issue 1-7 (April 1998) (hereafter referred to as Jacco).

Regarding claim 1, Jacco discloses SMIL (synchronized media integration language) designed to provide a declarative XML based language for "rich media"/multimedia presentations and the requirements for the SMIL document format comprises temporal and spatial constraints which reads on "An XML-based tag for visual cue associated to a visual element of an XML-based multimedia presentation, comprising:

an element attribute that defines the visual appearance of the cue; an element attribute that defines the spatial characteristics of the cue; and an element attribute that defines temporal characteristics of the cue" (1.0, 2.1, 2.2). In section 1.0 (introduction) Jacco discusses SMIL and its advantages and in sections (2.1 and 2.2) he subsequently discussed the temporal and spatial characteristics of SMIL as related to the claimed invention.

Regarding Claim 2, Jacco discloses everything as above (see claim 1), in addition Jacco disclosed a temporal constraints to introduce delays, start and end times and looping behavior of the document, which reads on "An XML-based tag as defined further wherein temporal characteristics include begin time, end time, and duration" (2.1, lines 3-5).

Regarding Claim 3, Shim, Jacco discloses everything as above (see claim 1), in addition Jacco discloses SMIL (synchronized media integration language) which by definition provides "rich media" multimedia presentations including synchronizing audio video images and texts components in a multimedia presentation which reads on "An XML-based tag wherein visual appearance includes color" (section 1.0, web definition).

Regarding Claim 4, Jacco discloses everything as above (see claim 1), in addition Jacco layout of media items which reads on "An XML-based tag as defined wherein visual appearance includes shape" (section 2.2, line 1).

Regarding Claim 5, Jacco discloses everything as above (see claim 1), in addition Jacco disclose spatial layout of media items which is based on position which reads on "An XML-based tag as defined wherein spatial characteristics include position" (section 2.2, line 1).

Regarding Claim 6, Jacco discloses everything as above (see claim 1) in addition Jacco discloses that a SMIL document describes a tree of parallel and sequential elements which can have additional attributes to define a more precise synchronization constraints, which reads on "An XML-based tag as defined wherein the XML-based tag

for the visual cue is nested within an XML-based element that defines the associated visual element" (1.0, lines 14-15).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 7-12 are rejected under 35 U.S.C. 102 (e) as being anticipated by Nasr et al US patents 6,263,332 (hereafter referenced as Nasr).

Regarding claim 7, Nasr discloses an XML enabled browser which is able to access XML documents from a server wherein documents include text, pictorial, audio, video used in multimedia presentations which reads on "In an XML-based browser that displays synchronized multimedia presentations to user" (column 10, lines 35-37 and column 12, lines 5-7) in addition Nasr discloses the steps involved in retrieving an XML document from a server 516 by user placing a request for a media document which is stored in the XML tag and read by the XML reader to execute as search in the server 516 to match the temporal and spatial characteristics found in the tags and transmit it to a browser 710 via TCP/IP 510 which reads on "a method for processing an XML-based

tag for visual cues associated with a multimedia element comprising: storing information from the tag concerning the multimedia element to which the visual cue is associated, together with the information from the tag concerning shape and spatial and temporal characteristics of the cue; and in synchronization with display of the shape specified, and the spatial and temporal relationships specified by the spatial and temporal characteristics" (figure 7).

Regarding claim 8, Nasr discloses everything as above (see claim 7), in addition Nasr discloses an XML documents processed by XML enabled browsers wherein the documents that include text, images, graphics, audio and video synchronized together into a multi media presentation which reads on "An XML-based browser as defined further wherein temporal characteristics include begin time, end time, and duration" (column 10, lines 35-37 and column 12, lines 5-7).

Regarding claim 9, Nasr discloses everything as above (see claim 7), in addition Nasr discloses an XML document to be interpreted by the browser 710 wherein color is defined as one of the visual attributes which reads on "An XML-based browser as defined further wherein visual appearance includes color" (column 11, 38-55, figure 7).

Regarding claim 10, Nasr discloses everything as above (see claim 7), in addition Nasr discloses an XML documents processed by XML enabled browsers wherein the documents that include text, images, graphics which reads on "An XML-based browser as defined wherein visual appearance includes shape" (column 12, lines 5-7).

Regarding claim 11, Nasr discloses everything as above (see claim 7), in addition Nasr discloses an XML documents processed by XML enabled browsers wherein the documents that include text, images, graphics which all have location, which reads on "An XML-based browser wherein spatial characteristics includes position" (column 12, lines 5-7).

Regarding claim 12, Nasr discloses everything as above (see claim 7), in addition Nasr discloses an XML document to be interpreted by the browser 710 wherein attributes of media objects are nested within element tags which reads on "An XML-based browser wherein the XML-based tag for the visual cue is nested within the XML based element that defines the associated visual element" (column 11, 38-55, figure 7).

Response to Arguments

Applicant's arguments, see applicant's arguments, filed 11/27/2007, with respect to 1-12 have been fully considered and are persuasive. The previous rejections of claims 1-12 in the non-final office action sent out by examiner on 09/10/2007 has been withdrawn.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANTHONY BANTAMOI whose telephone number is (571)270-3581. The examiner can normally be reached on MON. - FRI.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian T. Pendleton can be reached on (571) 272 7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anthony Bantamoi
Examiner
Art Unit 2623

AB


BRIAN PENDLETON
SUPERVISORY PATENT EXAMINER